

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

United States v. Christopher James Nickalaskey
Case No. 3:17-cr-00179-TMB-DMS

By: THE HONORABLE TIMOTHY M. BURGESS

PROCEEDINGS: ORDER FROM CHAMBERS

The matter comes before the Court on Defendant Christopher James Nickalaskey's "Appeal to the District Court from Final Recommendations [Dkt 210 and Dkt 232]." ¹ Although titled as an "Appeal," Defendant seeks this Court's de novo review of Judge Smith's Reports and Recommendations under Federal Rule of Criminal Procedure 59(b)(3). ² Rule 59 sets forth the procedure for referring matters to a magistrate judge; Rule 59(b)(3) requires a district court to consider de novo any objection to the magistrate judge's recommendation. Therefore, this Court construes Defendant's "Appeal" as objections to Judge Smith's recommendations and proceeds under Rule 59.

Having reviewed de novo Judge Smith's Final Report and Recommendation to Deny Defendant's Motion for Reconsideration (Doc. 184), ³ Defendant's Motion for Reconsideration, ⁴ Government's Opposition, ⁵ and underlying record, including the dispatch call, ⁶ the Court **HEREBY ADOPTS AND ACCEPTS** the Final Report and Recommendation at Docket 210 in its entirety. Defendant's Motion for Reconsideration at Docket 184 is **DENIED**.

Accordingly, the Court declines to reconsider its prior Order at Docket 78, which adopts and accepts Judge Smith's Final Report and Recommendation at Docket 69 and denied Defendant's Motion to Suppress at Docket 43.

Furthermore, having reviewed de novo Judge Smith's Final Report and Recommendation to Deny Defendant's Motion to Suppress (Doc. 172), ⁷ Defendant's Motion to Suppress Proceeds of

¹ Dkt. 236 (Appeal).

² *Id.* at 1–2.

³ Dkt. 210 (Final R&R).

⁴ Dkt. 184 (Motion).

⁵ Dkt. 185 (Opposition).

⁶ Dkts. 43 (Motion to Suppress); 46 (Opposition); 55 (Exhibits); 57 (Transcript); 59 (Initial R&R); 62 (Government Notice); 63 (Defendant Objections); 69 (Final R&R); 78 (Order Adopting Final R&R); 198 (Transcript); and 208 (Memorandum in Support of Dkt. 184).

⁷ Dkt. 232 (Final R&R).

Warrantless Patdown Attempt,⁸ Government's Opposition,⁹ and the underlying record,¹⁰ the Court **HEREBY ADOPTS AND ACCEPTS** the Final Report and Recommendation at Docket 232 in its entirety. Defendant's Motion to Suppress at Docket 172 is **DENIED**.

IT IS SO ORDERED.

Entered at the direction of the Honorable Timothy M. Burgess, United States District Judge.

DATE: August 7, 2020.

⁸ Dkt. 172 (Motion to Suppress).

⁹ Dkt. 173 (Opposition).

¹⁰ Due to overlapping evidence between the Motion to Suppress at Docket 172 and Defendant's previous Motion to Suppress at Docket 43, the Court has reviewed the entirety of the relevant underlying record. *See also* Dkts. 177 (Initial R&R); 181 (Defendant's Objections); and 216 (Government Response).